1945

File No. Vacancies B.L.A & B.C. 45

Legal Deptt

B **BRANCH**

Subject:—

Vacancies in the B.I.A and B.C.A. during the suspension of the Constitution

2/1945 E

File No. Vacancies B.L.A & B.C. 45

Gen. 194 6.

525-B

Office of the R.L.A.

The Hon. Mr. G.V. Mavlankar has been duly elected to the Central Legislative Assembly as being the only candidate from the Northern Division Non-Muhammadan Rural Constituency. The Commissioner, N.D. and Returning officer has been asked to report without delay the result of the election under rule 14(9) of the Legislative Assembly Electoral Rules to the Secretary to the Government of India in the Legislative Department. After 10 days from the date the result of the election to the Central Legislative Assembly is notified in the Gazette of India his seat in the Bombay Legislative Assembly will become vacant under rule 4 of the Bombay (Prohibition of Simultaneous Membership) Rules, 1936.

2. He will not however cease to be the Speaker of the Bombay Legislative Assembly under section 65(2) of the Government of India Act, 1935, since the operation of that section has been suspended by the Procalamation. Attention is invited to to para. 1 of R.L.A.'s opinion No. 249 Confl., dated 21st November 1939. As has been pointed out therein the effect of the suspension of the operation of section 65 is that whatever has already been done under or by virtue of the said section remains but no further action can be taken under or by virtue thereof.

3. It is proposed to dissolve the Assembly on the 26th November 1945. Since, however, it is not proposed to revoke the suspension of section 65 under the Proclamation till after the election are held, Mr. Mavlankar will continue to be the Speaker of the Assembly not only till the 26th

November.....

November 1945 on which date it is proposed to dissolve the Assembly but also thereafter till the Proclamation is revoked and the operation of section 65 is restroed. When sub-section (2) of section 65, is reviwed, he will vacate his Speakership under that subsection fortherwith, and although the point is not free fromdoubt the better view to take is that the proviso to subsection (2) has no occasion to operate.

2. There is at present no Deputy Speaker to the Bombay Legislative Assembly. Mr. N.G.Koshi who was the Deputy Speaker of the Assembly died on 9th April 1945.

Id/- P.N.M.

Remembrancer of Legal Affairs.

U.R. to G.S.'s Office,

No. 8460, dated 13-11-1945.

JPR.12/7/56.
4 copies.